

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Freedom to Work Act.

6 Section 5. Definitions. In this Act:

7 "Covenant not to compete" means an agreement:

8 (1) between an employer and a low-wage employee that  
9 restricts such low-wage employee from performing:

10 (A) any work for another employer for a specified  
11 period of time;

12 (B) any work in a specified geographical area; or

13 (C) work for another employer that is similar to  
14 such low-wage employee's work for the employer  
15 included as a party to the agreement; and

16 (2) that is entered into after the effective date of  
17 this Act.

18 "Director" means the Director of Labor.

19 "Employer" has the meaning given to such term in subsection  
20 (c) of Section 3 of the Minimum Wage Law. "Employer" does not  
21 include governmental or quasi-governmental bodies.

22 "Low-wage employee" means an employee who earns the greater  
23 of (1) the hourly rate equal to the minimum wage required by

1 the applicable federal, State, or local minimum wage law or (2)  
2 \$13.00 per hour.

3 Section 10. Prohibiting covenants not to compete for  
4 low-wage employees.

5 (a) No employer shall enter into a covenant not to compete  
6 with any low-wage employee of the employer.

7 (b) A covenant not to compete entered into between an  
8 employer and a low-wage employee is illegal and void.

9 Section 15. Director's duties. The Director, or his or her  
10 authorized representatives, have the authority to:

11 (a) Investigate and may enter and inspect such places and  
12 such records (and make copies thereof) at reasonable times  
13 during regular business hours, not including an inconvenient  
14 time at the employer's place of business, question employees,  
15 and investigate those facts, conditions, practices, or matters  
16 as he or she may deem necessary or appropriate to determine  
17 whether any person has violated any provision of this Act, or  
18 which may aid in the enforcement of this Act.

19 (b) Require from any employer full and correct statements  
20 and reports in writing, including sworn statements, at such  
21 times as the Director may deem necessary, regarding hiring,  
22 covenants not to compete, names, addresses, and other  
23 information pertaining to the employer's low-wage employees as  
24 the Director may deem necessary for the enforcement of this

1 Act.

2 (c) Require by subpoena the attendance and testimony of  
3 witnesses and the production of all books, records, and other  
4 evidence relative to a matter under investigation or hearing.  
5 The subpoena shall be signed and issued by the Director or his  
6 or her authorized representative. If a person fails to comply  
7 with any subpoena lawfully issued under this Section or a  
8 witness refuses to produce evidence or testify to any matter  
9 regarding which he or she may be lawfully interrogated, the  
10 court may, upon application of the Director, or his or her  
11 authorized representative, compel obedience by proceedings for  
12 contempt.

13 Section 20. Employer duties. Every employer subject to any  
14 provision of this Act or of any order issued under this Act  
15 shall make and keep for a period of not less than 3 years, true  
16 and accurate records of the name, address, and occupation of  
17 each of the employer's low-wage employees, all interviews and  
18 meetings pertaining to the hiring process, including, but not  
19 limited to, discussions of covenants not to compete, and such  
20 other information, and make such reports therefrom to the  
21 Department, as the Department may by rule prescribe as  
22 necessary or appropriate for the enforcement of the provisions  
23 of this Act or of the rules adopted thereunder. Such records  
24 shall be open for inspection or copying by the Director or his  
25 or her authorized representative at any reasonable time as

1 limited by paragraph (a) of Section 15 of this Act. Every  
2 employer shall furnish to the Director or his or her authorized  
3 representative on demand a sworn statement of such records and  
4 information upon forms prescribed or approved by the Director.

5 Section 25. Administrative rules.

6 The Department shall adopt rules under the Illinois  
7 Administrative Procedure Act, including definitions of terms,  
8 as appropriate to carry out the purposes of this Act, to  
9 prevent the circumvention or evasion thereof, and to safeguard  
10 the requirements governing covenants not to compete under the  
11 Act.

12 Section 30. Violations; Department duties.

13 (a) Any employer, whether directly or through any officer,  
14 employee, or agent, who:

15 (1) hinders or delays the Director or his or her  
16 authorized representative in the performance of his or her  
17 duties in the enforcement of this Act;

18 (2) refuses to admit the Director or his or her  
19 authorized representative to any place of employment;

20 (3) fails to keep the records required under this Act  
21 or to furnish such records required or any information to  
22 be furnished under this Act to the Director or his or her  
23 authorized representative upon request;

24 (4) falsifies any such record; or

1           (5) refuses to make such records available to the  
2           Director or his authorized representative.

3           (b) Any employer, whether directly or through any officer,  
4           employee, or agent, who discharges or in any other manner  
5           discriminates against any low-wage employee because that  
6           employee has made a complaint to his or her employer, or to the  
7           Director or his or her authorized representative, or because  
8           that employee has caused to be instituted or is about to cause  
9           to be instituted any proceeding under or related to this Act,  
10          or because that employee has testified or is about to testify  
11          in an investigation or proceeding under this Act, is guilty of  
12          a Class B misdemeanor.

13          (c) It is the duty of the Department to inquire diligently  
14          for any violations of this Act, and to institute the action for  
15          penalties herein provided, and to enforce generally the  
16          provisions of this Act.

17          Section 35. Civil fine.

18          An employer that violates any provision of this Act or any  
19          rule adopted under this Act is subject to a civil penalty for  
20          each employee affected as follows:

21                 (1) first violation, a civil penalty not to exceed  
22                 \$500;

23                 (2) second or subsequent violation, a civil penalty not  
24                 to exceed \$1,000.

25          In determining the amount of any civil fine under this

1 Section, the Director shall consider the appropriateness of the  
2 fine to the size of the employer subject to the fine and the  
3 gravity of the applicable violation.